

## **REMARKS**

Applicant has carefully reviewed the Office Action dated January 22, 2007. Applicant is submitting herewith a Petition Under 37 C.F.R. 1.47(b), the appropriate fee, and the required supporting documentation, including a Statement Under 37 C.F.R. 3.73(b). Applicant submits that the Amendments to the claims now comply with the requirements of 37 C.F.R. 1.173(b).

Claims 1-11, 41-43 are rejected under 35 U.S.C. 251 as being improperly broadened in a reissue application made a sworn to by the assignee and not the patentee. Applicant respectfully traverses this rejection. As stated above, Applicant has submitted a Petition Under 35 C.F.R. 1.47(b), the appropriate fee, and the required supporting documentation to the Office of Petitions on even date herewith. Applicant respectfully requests withdrawal of this rejection.

Claims 1-11, 41-43 are rejected under 35 U.S.C. 251 as being based upon a defective reissue oath/declaration, which was found to be defective because it fails to identify at least one error which is relied upon to support the reissue application. Applicant submits that the Reissue Application Declaration by the Assignee, signed by William S. Leftwich, and dated March 11, 2002, in the box “At least one error upon which reissued is based is described as follows” states:

The error arose because of the failure of the patentee, and the failure of his patent attorney, to appreciate the full scope of the invention. As a result, claims covering the broader aspect of the invention were not included in the application for the original patent, nor in any amendment thereto.

MPEP § 1402 states:

An attorney’s failure to appreciate the full scope of the invention was held to be an error correctable through reissue in the decision of *In re Wilder*, 736 F.2d 1516, 222 USPQ 369 (Fed. Cir. 1984).

As such, based on the Petition Under 35 C.F.R. 1.47(b), the appropriate fee, and the required supporting documentation that were submitted to the Office of Petitions on even date herewith, the

Reissue Application Declaration by the Assignee submitted with the application is not defective.  
Applicant respectfully requests withdrawal of this rejection.

Applicant has now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicant respectfully requests full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-25,478 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,  
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